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Report of the Secretary-General on the Sudan and South Sudan

I. Introduction

1. The present report is submitted pursuant to paragraph 5 of Security Council resolution 2046 (2012), in which the Council requested me to report, in consultation with the African Union High-level Implementation Panel, the Chair of the Intergovernmental Authority on Development (IGAD) and the Chairperson of the African Union Commission, on the status of the negotiations between the Sudan and South Sudan. The present report describes the status of the parties' compliance with that resolution through an evaluation of the security situation on the border between the two countries, a description of the agreements concluded between them on 27 September and an analysis of the outstanding issues. In the light of the communiqué issued by the Peace and Security Council of the African Union on 24 October, the present report takes into account the additional time that the Sudan and South Sudan were given to settle the disputed and claimed areas and agree on a process to determine the final status of Abyei, in addition to the time accorded to the Government of the Sudan and the Sudan People's Liberation Movement/North (SPLM/North) to engage in direct talks to agree on humanitarian access to, and the peaceful settlement of the conflict in, Southern Kordofan and Blue Nile States.

II. Background

2. Following the secession of South Sudan from the Sudan on 9 July 2011, a number of key issues between the two countries remained unresolved, including economic arrangements with regard to debt, oil exploitation and the use of existing oil infrastructure, the status of nationals of one country in the other, border security, the settlement of remaining border disputes and the determination of the final status of Abyei. To reach a settlement, the parties requested the African Union High-level Implementation Panel to facilitate negotiations on those issues. The office of my Special Envoy for the Sudan and South Sudan supported this effort and coordinated its activities with the Panel and other international partners. While negotiations continued, the relations between the two countries deteriorated owing to, among other things, unresolved security issues along a border still to be demarcated, financial issues relating to oil transit and processing fees, and accusations that each country was supporting and harbouring the other's rebel militias. Cross-border

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attacks, counter-attacks and aerial bombardments escalated throughout the first months of 2012.

3. Accordingly, the Panel brokered a memorandum of understanding on non-aggression and cooperation dated 10 February and several other agreements in March, which were to be endorsed and signed by the two Heads of State at a presidential summit early in April. On 10 April, however, following a series of skirmishes, the South Sudanese armed forces took Heglig, the site of the largest remaining oil field in the Sudan, allegedly in retaliation for cross-border bombing and incursions by the Sudanese armed forces. That cross-border conflict, the only confrontation between two States on the continent at that time, prompted the Peace and Security Council of the African Union to intervene and adopt a road map in its communiqué of 24 April, which was endorsed by the Security Council in its resolution 2046 (2012), adopted on 2 May.

4. The parties (the Sudan, South Sudan and SPLM/North) were thus requested to address security issues and finalize negotiations to resolve all differences between them peacefully. It was decided that the following actions should be taken with a view to their resolution within a period of three months:

(a) With regard to security issues, the Sudan and South Sudan should:

(i) Immediately cease all hostilities, including aerial bombardments;

(ii) Unconditionally withdraw all their armed forces to their side of the border;

(iii) Activate the Joint Border Verification and Monitoring Mechanism and the Safe Demilitarized Border Zone, in accordance with the administrative and security map presented to the parties by the Panel in November 2011;

(iv) Cease the harbouring of, or provision of support to, rebel groups against the other State;

(v) Activate the ad hoc committee, under the Joint Political and Security Mechanism, to receive and investigate complaints and allegations made by one party against the other;

(vi) Immediately cease hostile propaganda and inflammatory statements in the media, in addition to any attacks against property of and religious and cultural symbols belonging to the nationals of the other State;

(vii) Implement pending aspects of the Agreement between the Government of the Sudan and the Sudan People's Liberation Movement on Temporary Arrangements for the Administration and Security of the Abyei Area of 20 June 2011;

(b) The Sudan and South Sudan should resume negotiations to reach agreement on:

(i) Oil and associated payments;

(ii) Status of nationals of one country resident in the other;

(iii) Status of the disputed and claimed border areas;

(iv) Demarcation of the border;

(v) Final status of the Abyei Area;

(c) With regard to the conflict in Southern Kordofan and Blue Nile States, the Government of the Sudan and SPLM/North should:

(i) Reach a negotiated settlement on the basis of the Framework Agreement between the Government of the Sudan and the Sudan People's Liberation Movement (North) on Political and Security Arrangements in Blue Nile and Southern Kordofan States;

(ii) Accept the tripartite proposal submitted by the African Union, the United Nations and the League of Arab States to permit humanitarian access to the affected population in the two areas.

III. Security issues

5. The security situation along the border between the Sudan and South Sudan remained tense throughout the period under review but the number of reported cross-border incidents steadily decreased following the adoption of resolution 2046 (2012) by the Security Council. The continuing conflict in Southern Kordofan and Blue Nile States, in addition to the presence of the Darfur rebel groups, including the Justice and Equality Movement (JEM), alongside SPLM/North, compounded the situation. Many of the violations reported remained unconfirmed owing to the limited access of the United Nations Mission in South Sudan (UNMISS) to border areas in South Sudan and the lack of a United Nations presence on the Sudanese side of the border in Southern Kordofan and Blue Nile States. Only a few reported incidents were independently verified by the United Nations and are described below.

Cessation of hostilities and unconditional withdrawal

6. After the South Sudanese armed forces reported to UNMISS sporadic clashes between the Sudanese armed forces and their own units on the South Sudanese side of the border from 1 to 4 May, an UNMISS patrol to Lalop on 4 May confirmed the presence of three craters 24 km south of Tishwin and 34 km north of Bentiu, inside South Sudanese territory.

7. On 25 May, an UNMISS patrol in Rumaker, 12 km south of War Guit, a locality that lies within the disputed area between the Sudan and South Sudan, along the Eastern Darfur-Northern Bahr el Ghazal portion of the Kiir/Bahr el-Arab River, confirmed reports of displaced persons leaving the War Guit area owing to fighting between the South Sudanese and Sudanese armed forces. On 26 May, an inter-agency assessment team identified 2,620 displaced persons in Rumaker and 645 in the nearby village of War Lang. On the same day, according to the South Sudanese armed forces, an Antonov aircraft flew over Aweil town. United Nations staff also reported hearing the sound of an aircraft flying over Aweil that day.

8. Following a period of relative calm on the border with no reports of significant hostilities or aerial bombardments, UNMISS was informed by the South Sudanese armed forces that on 20 July the Sudanese armed forces had bombed Rumaker, injuring two civilians. UNMISS dispatched a patrol on 21 July and confirmed the presence of six bomb craters in Magak Donk, Northern Bahr el Ghazal State. UNMISS was informed that both casualties had been taken to Aweil hospital and

that one had succumbed to his injuries. The Sudanese authorities confirmed that bombing had taken place, but stated that it was against JEM troops who had just crossed into Sudanese territory from South Sudan in a convoy of more than 100 vehicles. The Government of the Sudan noted that it had previously informed the South Sudanese authorities that JEM members were about to cross from South Sudan into the Sudan and requested that South Sudan should prevent any such movement. The Government of the Sudan stated that, in the absence of any action by South Sudan, it had launched an operation in self-defence.

9. A number of other cross-border incidents reported by the Sudan and South Sudan could not be verified. At the same time, the Sudan continued to insist that the South Sudanese armed forces were occupying Samaha in South Darfur State and the crossing point at the bridge over the Kiir/Bahr el-Arab River, in addition to the south of Meiram and an area around Lake Abyad, both in Southern Kordofan State.

10. On 27 September, the parties signed an agreement on security arrangements in which they reaffirmed their commitment to renouncing war and to implementing all the security agreements and arrangements reached in previous negotiations, including agreements relating to the immediate withdrawal of any forces to their respective side of the border. Further details on the timetable and conditions for the withdrawal of forces are to be determined by the Joint Political and Security Mechanism. The Mechanism met in Juba from 5 to 7 November to determine modalities and take specific steps to implement all security agreements. It made some progress towards this objective and will seek to finalize work in this regard at a forthcoming meeting in Khartoum.

Activation of the Safe Demilitarized Border Zone, the Joint Border Verification and Monitoring Mechanism and the Ad Hoc Committee

11. In the agreement on security arrangements, the parties also agreed to make immediately operational the Safe Demilitarized Border Zone in accordance with the administrative and security map presented to them by the Panel in November 2011. The agreement makes provision for special arrangements for what is known as the "14-mile area", which involve its complete demilitarization, overseen and supported by the mechanisms established under the Joint Political and Security Mechanism. The parties agreed to maintain the status quo of the joint tribal mechanisms for the resolution of disputes between the Rizeigat and the Dinka Malual communities in the area and to immediately open the 10 agreed border-crossing corridors linking the two States.

12. The agreement further provides that the parties are to make the Joint Border Verification and Monitoring Mechanism operational immediately and activate the Ad Hoc Committee as a subcommittee of the Joint Political and Security Mechanism, designated to receive and investigate complaints and allegations made by one State against the other and to investigate any threats to those arrangements emanating from beyond the Safe Demilitarized Border Zone. Further details on the operationalization of the Joint Border Verification and Monitoring Mechanism, including the roll-out plan proposed by the United Nations Interim Security Force for Abyei (UNISFA), are yet to be agreed upon by the Joint Political and Security Mechanism, as described above.

Harbouring of and provision of support to rebels

13. Accusations that each side was harbouring and supporting the other's rebel groups were made to the Security Council by both sides during the period under review. With the renewed commitment of the parties to the Memorandum of Understanding on Non-Aggression and Cooperation of 10 February 2012, both parties also renewed their pledge to cease harbouring and supporting the other's rebel groups. Any progress in the implementation of this pledge has been difficult to verify in the absence of the full operationalization of the Ad Hoc Committee and the Joint Border Verification and Monitoring Mechanism. Each party continued to accuse the other throughout the reporting period. In fact, the issue of how to monitor compliance became the most contentious point, leading to a lack of progress on the implementation of the security agreement at the meeting of the Joint Political and Security Mechanism held in Juba in November.

Hostile propaganda

14. Since 2 May, hostile propaganda and inflammatory statements in the media have reduced significantly and no major incidents or attacks against property of and religious and cultural symbols belonging to the other State's nationals have been reported. There were, however, reports of destruction of church property and seizure of schools associated with South Sudanese nationals around Khartoum. In this regard, on 18 June, the Sudanese authorities reportedly dispatched bulldozers, under police protection, to destroy property belonging to the Episcopal Parish Church of Saint John in the Haj Yousif area of Khartoum. In addition, three schools owned by the Catholic Church, one in Omdurman and two in Mayo district, were reportedly taken over by the Sudanese authorities without explanation.

15. On 27 September, the parties also agreed to cease immediately all hostile propaganda and inflammatory statements in the media. In the weeks following the signing of the agreements, there were no reports of hostile propaganda or attacks against the property of and religious and cultural symbols belonging to the nationals of the other State.

Implementation of the Agreement of 20 June 2011

16. As previously reported by UNISFA, the deadlock in the implementation of the Agreement of 20 June 2011 continued. The parties are yet to agree on the elements necessary for the establishment of the Abyei Area Administration, the Abyei Area Council, the Abyei Police Service and the intergovernmental task force on humanitarian assistance. While the South Sudanese and Sudanese armed forces had withdrawn from the Abyei Area with UNISFA support by early May, a company-size unit of the Sudanese police remains deployed within the Diffra oil installations in violation of the Agreement. Progress in resolving the final status of the Abyei Area should greatly facilitate the implementation of the Agreement.

17. While UNISFA has been able to maintain security in the Abyei Area, the absence of the institutions stipulated in the Agreement puts a heavy burden on the Force, which is not equipped to deal with law and order and other administrative and social services such as the resettlement of returnees. On 24 April, recognizing the urgent need to implement the outstanding provisions of the Agreement, the Panel recommended to the Peace and Security Council of the African Union that the parties should implement the Agreement in its entirety, especially with regard to the

establishment of the Abyei Area Administration and Council. In its communiqué of 24 October 2012, the Peace and Security Council called upon the parties to implement immediately the Agreement in its entirety.

IV. Negotiations

18. Following the concerted international pressure emanating from the adoption by the Peace and Security Council of a road map and by the Security Council of resolution 2046 (2012), the parties resumed talks on 29 May in Addis Ababa. Although they thus stepped away from the brink of war and the security situation significantly improved in the following weeks and months, the parties did not reach agreement on all issues by the deadline of 2 August set in resolution 2046 (2012). Nevertheless, in addition to agreeing on an oil deal on 3 August, the two parties significantly narrowed their differences on all issues during the stipulated three-month period. Recognizing that important progress, and at the request of the Panel, the Peace and Security Council granted a six-week extension of the deadline in its communiqué of 4 August, a decision subsequently endorsed by the Security Council in its presidential statement of 31 August (S/PRST/2012/19).

19. The negotiations resumed on 4 September and concluded with the signing of nine agreements on 27 September: an overall cooperation agreement and eight detailed agreements on security arrangements, oil, trade, banking, specific economic matters, pensions, border issues and the status of one country's nationals in the other. The issues of the disputed and claimed border areas and the final status of the Abyei Area remain unresolved.

20. The overall cooperation agreement serves as an umbrella document for the other agreements and reaffirms the parties' commitment to the overriding principle of establishing the Sudan and South Sudan as two viable neighbouring States. The parties committed themselves to cooperating with each other for that purpose. The agreement envisages the holding of regular summit meetings, cooperation at the ministerial and technical levels and the establishment of dispute-resolution mechanisms.

21. The parties also agreed to ratify all the agreements signed on 27 September. In the weeks that followed, while strong opposition to some aspects of the agreements was voiced in Juba and Khartoum, the signature by the two Presidents provided the much-needed legitimacy that guaranteed their ratification by both parliaments. On 8 October, the President of the Sudan, Omer Hassan A. Al-Bashir, addressed the opening session of the Sudanese parliament and underscored the importance of cooperation and peaceful coexistence with South Sudan. The nine agreements were presented to the Sudanese parliament on 9 October and ratified on 17 October.

22. Similarly, the South Sudanese parliament convened an extraordinary session on 15 October to consider the nine agreements, after their endorsement by the Cabinet and the Council of States. The President of South Sudan, Salva Kiir, and the Speaker of the National Legislative Assembly, James Wani Igga, strongly supported the ratification of the agreements and responded to public criticism and misunderstandings relating to the implementation of what is known as the "four freedoms agreement" (see para. 27) and the demilitarization of the 14-mile area. The agreements were ratified by the parliament on 16 October.

Oil and associated payments

23. The Governments of the Sudan and South Sudan concluded a comprehensive agreement on oil and related economic matters, providing for the resumption of oil production by South Sudan, giving South Sudan access rights to Sudanese processing and transport facilities and setting the corresponding transit and processing fees. Consequently, oil production is expected to resume as soon as it is technically feasible. In view of the economic hardships faced by both countries, such resumption will be to their mutual benefit and provide much-needed resources to strengthen their economies. The parties have also agreed to unconditionally cancel and forgive claims of oil-related arrears and other outstanding oil-related financial claims.

24. Taking into account the financial impact of the secession of South Sudan on the Sudanese economy, the agreement also provides for a transfer of $3.028 billion from South Sudan to the Sudan over the coming three and a half years. Lastly, to oversee the implementation of the agreement, the two States agreed to establish a petroleum monitoring committee constituted of representatives of the Sudan and South Sudan and chaired by a nominee of the African Union Commission.

25. At the time of signature, the Sudan and South Sudan could not agree on the transfer of rights with regard to the participating interests of the Sudan National Petroleum Corporation in exploration and production-sharing agreements within South Sudan. They did agree, however, to continue discussions on the issue with a view to reaching an agreement within two months.

Economic, trade and banking issues

26. The Sudan and South Sudan reached agreements on various economic issues, central banking and trade, in addition to a framework agreement to facilitate the payment of post-service benefits for civil servants. Ministerial-level and technical-level committees have been envisaged to ensure their implementation. The parties reaffirmed the principle of mutual forgiveness with regard to State-to-State arrears and claims, in addition to agreeing on the use of regular legal procedures and mechanisms to address private claims of arrears, including pension rights. Furthermore, to narrow the financial and fiscal gap resulting from the secession of South Sudan, the Governments agreed on a joint international approach to secure international debt relief and financial support for the Sudan as part of a package of measures alongside the transitional financial arrangements.

Status of nationals

27. The parties also signed the "four freedoms agreement", a framework agreement on the status of nationals of the other State and related issues, which they had previously initialled on 13 March. It provides for stronger legal protection for nationals of one State residing within the territory of the other, including the freedom of movement, work, residence and property ownership. The parties also agreed to enhance cooperation to provide nationals of each State with all documentation, including identification and work permits, necessary to facilitate integration.

28. The parties further agreed to establish a joint high-level committee chaired by the respective ministers of the interior, which would oversee the adoption and

implementation of those measures relating to each other's nationals residing in the other State. The committee has yet to meet, although scheduled to do so within two weeks of the ratification of the agreement.

Border

29. The agreement on border issues is a consolidation of a range of issues relating to the overall management of the border (the area either side of the boundary between the two States). Two key principles are adopted therein: a "soft border" and an integrated border management approach. The former will ensure a peaceful, safe and secure border between which the flow of people, trade and livestock will remain unhindered. The agreement makes special arrangements for transhumance (seasonal movement of livestock for pasture) and guarantees the continuance of nomadic livelihoods. The principles of the integrated border management approach will foster better coordination and management of various activities along the border, under the oversight of a joint border commission and with the participation of all key actors, including the border communities.

30. To reinforce a wider common management approach to implementation, the parties agreed to establish a joint border commission co-chaired at the ministerial level and supported by a number of subcommittees to assist in its functions, including on aspects relating to socioeconomic issues, transboundary resource management, border development and infrastructure, and legal and judicial matters.

31. The parties reaffirmed their commitment to joint demarcation of their common border, originally initialled as the Agreement on the Demarcation of the Boundary on 13 March. To facilitate and oversee demarcation activities, the parties committed themselves to making the necessary institutional arrangements, including the establishment of a joint demarcation committee and a joint technical committee.

Disputed and claimed border areas

32. The significant progress in narrowing the gaps between their positions notwithstanding, the parties were unable to settle the disputed and claimed border areas as stipulated in the road map adopted by the Peace and Security Council and in Security Council resolution 2046 (2012). The Panel made several proposals to comprehensively address both the disputed and claimed areas on the basis of the Comprehensive Peace Agreement of 2005 and other documents concluded during the interim period.

33. Negotiations became deadlocked over the characterization of Kaka, one of the five disputed areas identified by the Technical Boundary Committee and the Joint Political Committee established under the Comprehensive Peace Agreement. The disagreement revolves around whether Kaka refers only to Kaka town, as argued by South Sudan, or to Kaka area, as maintained by the Sudan, which would significantly affect the size of the territory under review. The parties were unable to resolve the question, reference to historical records and documents from the interim period notwithstanding.

34. That deadlock has also impeded the finalization of the terms of reference of the team of experts appointed by the African Union. The team is tasked with providing an authoritative but non-binding opinion on the disputed areas so as to assist in resolving the issue. The parties are either to consider the team's opinion or

to continue negotiating on another basis, including the possibility of reverting to arbitration.

35. With regard to the areas at issue, the parties could also not agree on the timing of the process. While they agreed to accord priority to the disputed areas, the disagreement lies in whether the claimed areas should be dealt with in parallel with (position of South Sudan) or after (position of the Sudan) the settlement of the disputed areas. The Panel proposed that, while each party should be able to present claims through the Panel, those claims would be considered only after the team of experts had rendered its opinion on the disputed areas (expected by the end of 2012) and that opinion had been considered by the parties.

36. During the ministerial meeting of the Peace and Security Council on 24 October, the Panel suggested that the parties should be allowed two additional weeks to complete their negotiations on how to settle the issues surrounding the disputed and claimed areas, a suggestion that was endorsed by the Council in its communiqué. The Panel suggested that, if the Governments were unable to reach agreement by the specified time, the team of experts should begin its work as described in its draft terms of reference, leaving aside only the issue of Kaka. In its communiqué of 24 October, the Council endorsed the draft terms of reference, urged the parties to collaborate with the team of experts and called upon them to accord the team all the necessary cooperation in the conduct of its work.

37. While the positions of the parties on both issues remain divergent, the differences are not insurmountable. Both negotiating teams agreed to reconvene within one month of the signing of the agreements to discuss the Kaka issue and the process for resolving the status of the claimed border areas as stipulated in the decision of the Peace and Security Council.

Final status of the Abyei Area

38. Following the rejection of several of the Panel's proposals on the matter in 2010 and 2011, and in the light of the parties' inability to agree on an alternative, the Presidents of the Sudan and South Sudan requested the Panel to submit a single proposal to resolve the final status of the Abyei Area. On 21 September, on the basis of existing agreements between the parties, the Panel presented a comprehensive process to the Presidents that would allow for the determination of the final status of the territory.

39. In its proposal, the Panel suggested that a referendum should be conducted in October 2013, prepared by a joint referendum commission chaired by a nominee of the African Union. Eligible voters would be residents of the Abyei Area, while the commission would ascertain voter eligibility and compile the electoral roll. Special status would be accorded to Abyei even after the referendum, enshrined in the constitution of the country to which its population would choose to belong. Pastoralist rights would also be protected by law. A joint request to international donors would support the socioeconomic development of Abyei, the adjacent localities in Southern Kordofan and the adjoining states of South Sudan, while the revenue from oil extracted from Abyei would be shared between Abyei, Southern Kordofan and the national Government.

40. While the Government of South Sudan accepted the proposal in its entirety, the Government of the Sudan rejected some of its provisions, in particular the proposed

terms for voter eligibility and the suggestion that the chair of the referendum commission would be an international figure appointed by the African Union. When the parties could not reach a common position, the President of the Sudan sought an extension of six weeks to discuss the issue further. The Panel recommended that the extension should be granted. The Peace and Security Council accepted and commended the proposal, deciding to accord the parties the requested additional six weeks to reach agreement. In accordance with the Council's communiqué of 24 October, the proposal will be adopted as final and binding unless the two parties manage to agree on an alternative. The Chair of the Panel has written to both Presidents to indicate that, given that the Panel has no further proposals to offer and thus cannot facilitate further meetings, the parties should meet bilaterally to consider the issue. To date, however, the two Presidents have taken no steps to discuss the issue further. The Government of the Sudan continues to issue statements, including through the President, in which it states that the proposal cannot be accepted as it stands.

V. Conflict in Southern Kordofan and Blue Nile States

41. The fighting in Southern Kordofan and Blue Nile States between the Sudanese armed forces and SPLM/North continued throughout the reporting period and is expected to intensify with the end of the rainy season. The reports of violence, including aerial bombardments, have proved difficult to verify independently in view of the remoteness of many of the locations involved and the lack of a United Nations presence there.

42. In June, in Southern Kordofan, populations from Kafina (Buram locality), Al Dorat and Ad-Dandor (Reif Ashargi locality), Reif Elgarb, Shat, Kurungu and Al Reika (Buram locality) and Talodi and Balonya (Kadugli locality) fled fighting between the Government of the Sudan and SPLM/North and aerial bombardment by the Sudanese armed forces. On 5 June, JEM, which is allied with SPLM/North, reportedly attacked the villages of Almajror and Abu Rai in Ghubaysh locality (approximately 294 km south-west of El Obeid, Northern Kordofan), looting local markets and hijacking commercial trucks heading to Darfur. On 23 July, local media reported an armed clash between the Sudanese armed forces and JEM and the Sudan Revolutionary Front in Et Tibbun (approximately 30 km north-west of El Muglad, Northern Kordofan).

43. Early in August, further displacement took place following fighting in El Moreib and El Abassiya town (El Abbasiya locality). On 4 August, the World Food Programme reported that one of its staff members had been killed and another seriously injured after an attack by unidentified gunmen in the vicinity of Hilat Yatu (approximately 80 km north of Kadugli). Late in August, armed clashes continued near Abu Kershola in Rashad and El Moreib (El Abassiya locality). On 6 September, the Sudanese armed forces and SPLM/North reportedly clashed near the village of Hajar Al-Dom, approximately 30 km north-east of Kalogi town, resulting in the death of 21 civilians. The media also reported clashes near the village of Doka (approximately 13 km south of Kadugli) on 7 September. On 9 September, clashes between the Sudanese armed forces and JEM were reported in El Muglad and El Dibb, north-west Southern Kordofan. Early in October, media reports cited clashes between the Sudanese armed forces and SPLM/North in Kologi, Annagarko and Hgerjawad.

44. On 8 October, SPLM/North took responsibility for the firing of six mortar shells on the town of Kadugli. Official media claimed that the attack had killed seven women and children. A mortar round landed on the compound of the United Nations Children's Fund, but did not explode. All United Nations staff members at the compound were subsequently relocated to the nearby UNISFA logistics base. On 23 October, Sudanese armed forces aerial bombardments were reported in the vicinity of Kadugli. SPLM/North subsequently fired several mortar shells on Kadugli, including two that landed just south of the Fund compound.

45. In May and June, the Sudanese armed forces and SPLM/North repeatedly clashed along the Kurmuk-Ed Damazine road in the areas of Dindiro, Ullu and Shali, Blue Nile State. In addition, Sudanese armed forces aerial bombardments took place in Dindiro, Ullu and Baldogo. In the second half of June and July, the Sudanese armed forces and SPLM/North clashed in the vicinity of Kurmuk, Deim Mansur and Yabus. Fighting was also reported in Al Kelli (approximately 80 km south of Ed Damazin), Bagis (approximately 45 km south-east of Ed Damazin), in the area of the Falako mountains (40 km east of Geissan town in Geissan locality) and Derang (approximately 70 km south of Ed Damazin). Early in October, fighting between the Sudanese armed forces and SPLM/North in the area of Surkum (approximately 50 km north of Kurmuk) was reported by both sides through the media. Fighting continues in both Southern Kordofan and Blue Nile States.

Humanitarian access

46. Because of the sustained fighting, the humanitarian situation in Southern Kordofan and Blue Nile States has continued to worsen. United Nations agencies confirm that some 100 Sudanese refugees continue to arrive every day from Southern Kordofan into Unity and Upper Nile States in South Sudan. These numbers are expected to increase in the coming weeks because the end of the rainy season will open roads and ease travel. According to the Office of the United Nations High Commissioner for Refugees, there are more than 174,000 refugees in South Sudan and 38,700 in Ethiopia from the two states. The number of internally displaced persons remains unknown owing to the lack of access to the areas in question.

47. With regard to the provisions of the road map relating to Southern Kordofan and Blue Nile States, the tripartite partners (the African Union, the League of Arab States and the United Nations) signed two memorandums of understanding: one with the Government of the Sudan, on 5 August, and the other with SPLM/North, on 4 August. These memorandums outline how the three organizations would independently assess, deliver and monitor humanitarian assistance to affected civilians in the areas held by SPLM/North in the two states.

48. While the process of developing operational plans and needs assessments was to begin within one week of the signing of the memorandums, that the organizations did not immediately deploy new personnel and lengthy procedural processes led to delays. Following technical meetings in August and September, the organizations submitted the latest draft humanitarian delivery and assessment plan based on Government data to the Sudanese authorities on 8 October. A similar plan was presented to SPLM/North on 24 September, in which assessment and delivery options in the areas under the Movement's control were set out. SPLM/North responded negatively to the latest draft proposal on 9 October, arguing that it had

come too late after a promise and agreement to establish a speedier timeline. The Movement had initially proposed instead a high-level meeting with the three organizations and the Government under the auspices of the Panel and IGAD, but subsequently informed the tripartite team that it would accept a meeting to discuss the plan of action. The tripartite team is awaiting the confirmation of a date and venue in order to convene the meeting.

49. SPLM/North has, meanwhile, been expressing its frustration with the delay in humanitarian delivery in the areas that it controls since it signed the tripartite proposal in February. It blames the Government of the Sudan for intentional procrastination and has increased its calls for cross-border delivery, which the Government has accused some non-governmental organizations of already carrying out illegally. The Government, on the other hand, accuses SPLM/North of preventing civilians in need from coming to the Government-controlled safe areas away from the war zone to receive food that it is ready to distribute. The situation thus remains mired in unending bureaucratic processes.

50. The memorandums have remained difficult, if not impossible, to implement in the current state of unchecked fighting. While SPLM/North had agreed to a cessation of hostilities to allow humanitarian access, the Government of the Sudan provided only for humanitarian corridors during the process of assessment and distribution of humanitarian assistance, not a general ceasefire. The Panel and the three organizations have thus been pressing the two parties to initiate direct talks and to agree to an immediate cessation of hostilities as a first step, which would greatly facilitate humanitarian access to areas held by SPLM/North, in addition to providing an environment conducive to progress in talks at the political level.

Negotiated settlement

51. With regard to a negotiated settlement, the Panel brought together SPLM/North and the Government of the Sudan on 26 July for negotiations on political and security issues underlying the continuing conflict in Blue Nile and Southern Kordofan States. At the outset, both sides insisted on proximity talks and presented preconditions for engaging in direct talks. The Government of the Sudan insisted on the military and political disengagement of SPLM/North from South Sudan and opposed the return to the Agreement of 28 June 2011, which it had repudiated shortly after its signature. SPLM/North argued that it had disengaged from South Sudan politically and militarily when South Sudan became independent on 9 July 2011 and should therefore be regarded as a legal political party in the Sudan before it would engage in talks with the Government. On 16 September, the Panel submitted a draft proposal for a political solution based on the Agreement of 28 June 2011, reflecting the above-mentioned views and the changed circumstances and current realities on the ground. The parties did not meet in direct talks before the meeting of the Peace and Security Council on 24 October, during which the Council endorsed the Panel's draft proposal and requested the parties to begin direct negotiations, facilitated by the Panel with the support of the Chair of IGAD, no later than 10 November. That meeting has not yet taken place, although neither party has rejected the Council's decision in principle. The Panel is endeavouring to set a date suitable for both parties.

VI. Observations

52. Since the Security Council and the Peace and Security Council joined efforts to prevent an escalation of the crisis, the Sudan and South Sudan have stepped away from direct confrontation and returned to peaceful dialogue to resolve the outstanding peace, security and economic issues between them. Indeed, following the adoption of the road map of the Peace and Security Council and resolution 2046 (2012), the two parties have maintained relative calm around their common border and made significant progress in improving their relations. Their concerted efforts to find lasting solutions led, with the facilitation of the Panel and the support of the international community, to the signing of nine agreements between the two countries on 27 September in Addis Ababa. I congratulate both Presidents and their negotiating teams on their leadership in reaching agreement on these important issues. I also wish to reiterate my gratitude to the Panel for its able leadership and tireless efforts in assisting the two parties to reach these agreements. If properly implemented, they will play a decisive role in guiding the cooperation and development of the two countries and peoples.

53. The agreements on security, economic relations and the common border are key steps towards a stable and prosperous future for both countries. It is encouraging that both parliaments have ratified all agreements. It is now crucial that the parties use the positive spirit created by these agreements to maintain momentum and work towards their full and expeditious implementation. The actual establishment of the Safe Demilitarized Border Zone and the operationalization of the Joint Border Verification and Monitoring Mechanism is a critical immediate step in this regard. I welcome the meeting of the Joint Political and Security Mechanism held from 5 to 7 November in Juba as an important and welcome step towards this end. I urge both sides to expeditiously move towards the practical implementation of their security agreement.

54. The Sudan and South Sudan must also continue their efforts to reach agreement on the processes designed to address the claimed and disputed border areas and the future status of the Abyei Area. I concur with the Panel that the gaps between the parties on these issues are not unbridgeable and that the parties should use the pertinent proposals forwarded by the Panel and endorsed by the Peace and Security Council to again prove that they can overcome their differences for the sake of peace and the common good.

55. Both the Peace and Security Council and the Security Council have raised the importance of addressing the threats posed by the war in Southern Kordofan and Blue Nile States. As an unfinished chapter of the Comprehensive Peace Agreement of 2005, the war continues to have important implications for the relations between the Sudan and South Sudan and their security. The agreements between the two countries to neither support nor harbour each other's rebels and the mechanisms that they have agreed to establish to ensure compliance are welcome. Nevertheless, the security situation in those states remains extremely volatile. The war there continues with devastating consequences, in particular for civilians in the conflict zone. Thousands have fled for safety and sustenance to Ethiopia and South Sudan.

56. I regret that the memorandums of understanding signed by the African Union, the United Nations and the League of Arab States separately with the Government of the Sudan and SPLM/North to provide humanitarian assistance to civilians

trapped in the war zone have not been implemented. The two sides have not agreed on the means to create an atmosphere conducive to the safe and unfettered delivery of such assistance.

57. The human suffering in Southern Kordofan and Blue Nile States is a direct consequence of the conflict in those areas. Only a resolution to the conflict can stop the humanitarian crisis. It is abundantly clear that a ceasefire agreed through direct talks is critical to resolving the conflict peacefully and to allowing the humanitarian consequences to be addressed. The African Union, the United Nations and the League of Arab States will, of course, continue to urge both sides to clear procedural obstacles to enable the swift assessment of needs and the delivery of humanitarian relief to those in the conflict zone, consistent with the existing memorandums signed separately with both sides. Experience to date has not, however, proved encouraging. I urge the Security Council to reinforce my call upon the parties for an immediate cessation of hostilities that would allow safe humanitarian access and an atmosphere conducive to a peaceful resolution of the conflict, as stipulated in resolution 2046 (2012).

58. I welcome and commend the commitment to bilateral cooperation and the building of two viable States displayed by both Presidents since 27 September. Both countries have done much to ensure the necessary acceptance of the agreements by their respective constituencies, significant internal resistance notwithstanding. There is every reason to expect that, with such commitment, the two Presidents can lead the smooth implementation of the agreements already signed and conclude those that remain outstanding. The firm guidance of the Peace and Security Council, supported by the Security Council, and the continued engagement of the Panel will be needed to provide continuous encouragement and assistance to both leaders. I remain fully committed, both personally and through the efforts of my Special Envoy in support of the Panel, to help the two parties to finalize their agreements. The United Nations stands ready to assist in the implementation of these agreements in collaboration with all key partners.

59. I wish to extend my gratitude to former Presidents Thabo Mbeki, Pierre Buyoya and Abdulsalami Abubakar for their sustained efforts as the members of the Panel to assist the two parties in resolving their persistent differences. I wish to pay a special tribute to the Government of Ethiopia and, in particular, to the late Prime Minister, Meles Zenawi, and the current Prime Minister, Hailemariam Dessalegn, for their important role in efforts to stabilize the region and improve relations between the Sudan and South Sudan. The contribution of Ethiopia proved critical during the last months of negotiations and remains important for UNISFA. In this regard, I should also like to extend my gratitude to the Head of Mission and Force Commander of UNISFA, Tadesse Werede Tesfay.

60. Lastly, I should like to express my deep appreciation to my Special Envoy, Haile Menkerios, and his staff for their unfaltering commitment to the negotiations and their efforts to enhance peace and stability both within and between the Sudan and South Sudan.